

This letter discusses the sale of containers or packing materials for resale. See 86 Ill. Adm. 130.2070. (This is a GIL.)

August 3, 2004

Dear Xxxxx:

This letter is in response to your letter dated November 12, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC provides a complete solution for financial transactions that require the determination, calculation, and reporting of U.S. sales and use tax. The ABC system automatically determines sales and use tax for all state, county, city, transit or special district taxes associated with a given address. ABC also provides product taxability. ABC determines whether particular products are taxable or exempt, and customers map their products to our product listing.

We are seeking guidance on the taxability of packing materials. Our specific product taxability questions are detailed below. It would be helpful to us if you indicate any statutes or authorities you use.

Questions:

Scenario 1: A retailer buys non-returnable packing material such as bubble wrap or peanuts to use when packing their products for shipment.

Scenario 2: A manufacturer buys non-returnable packing material such as bubble wrap or peanuts to use when packing their products for shipment.

Are packaging materials subject to sales or use tax in Illinois in the scenario outlined?

Thank you for your assistance.

Department's Response:

Please find enclosed a copy of the Department's regulation governing "Sales of Containers, Wrapping and Packing Materials and Related Products," 86 Ill. Adm. Code 130.2070. The sale of tangible personal property for the purpose of resale is not taxable so long as the purchaser provides the seller with a Certificate of Resale in accordance with 86 Ill. Adm. Code 130.1405, enclosed. Please note that sellers of containers or packing materials to purchasers who sell tangible personal property contained in the containers or packed in the packing materials to others are deemed to make sales of the containers or packing materials to purchasers for purposes of resale, the receipts from which sales are not subject to the Retailers' Occupation Tax, if the purchasers of the containers or packing materials transfer the ownership of the containers or packing materials to their customers together with the ownership of the tangible personal property contained in the containers or packed in the packing materials. Please see 86 Ill. Adm. Code 130.2070, enclosed.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).]

Sincerely,

Samuel J. Moore
Associate Counsel

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